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Thomas J. Holcomb

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EXAMINER

HAMILTON, MATTHEW L

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/622,676	<b>Applicant(s)</b> HOLCOMB, THOMAS J.	
	<b>Examiner</b> MATTHEW L. HAMILTON	<b>Art Unit</b> 3688	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6,8-38,40-53 and 55-64 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,8-38,40-53 and 55-64 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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### ***Response to Amendment***

1. This action is in reply to the amendment filed on 03 July 2008. Claims 1, 8, 18, 21, 31, 40, 46, 48, 55 and 64 have been amended. Claims 7, 39 and 54 have been canceled. Claims 1-6, 8-38, 40-53 and 55-64 are currently pending and have been examined.
2. **Examiner's Note:** The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

### ***Previous Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claim 46 was rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim was dependent on itself. The Applicant has amended the claim to overcome the rejection and the rejection is withdrawn.

### ***Examiner Note***

5. Note on interpretation of claim terms - Unless a term is given a "clear definition" in the specification (MPEP § 2111.01), the examiner is obligated to give claims their broadest reasonable interpretation, in light of the specification, and consistent with the interpretation that those skilled in the art would reach (MPEP § 2111). An inventor may define specific terms used to describe invention, but must do so "with reasonable clarity, deliberateness, and precision"

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(MPEP § 2111.01.III). A “clear definition” must establish the metes and bounds of the terms. A clear definition must unambiguously establish what is and what is not included. A clear definition is indicated by a section labeled definitions, or by the use of phrases such as “by available advertising information we mean”; “available advertising information is defined as”; or “available advertising information includes, ... but does not include ...”. An example does not constitute a “clear definition” beyond the scope of the example.

6. The instant application contains no such clear definition for the phrase “available advertising information”. In the instant case, the examiner is required to give the term “available advertising information” its broadest reasonable interpretation, which the examiner judges to be any information associated with the available advertisement. That is taught as indicated by the cited prior art in paragraphs 0035 and 0036.
7. The Examiner notes on the bottom right hand side of pages 2 through 23 of the claim amendments and remarks contain the wrong application number.

### ***Claim Rejections - 35 USC § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

9. Claims 1-5, 8-17, 31-35, 37-38, 40-52 and 55-64 are rejected under 35 U.S.C. 102(e) as being anticipated by Blasko et al. US Publication 2002/0083444 A1.

#### **Claims 1 and 31:**

As per claim 1, **Blasko** teaches a method and computer readable medium comprising:

*classifying available advertising into a matrix including a plurality of cells storing advertising information, each of the cells being associated with channel, a daypart, and a service zone within the service area* (paragraphs 0035 and 0036);

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*associating each cell an available advertising inventory, associating each cell relevant psychographic viewer information including one or more of viewer spending preferences, viewer interests, and viewer politics (paragraph 0035);*

*associating with each cell an advertising price settable based on the available advertising inventory and relevant viewer information (paragraph 0037);*

*and accessing one of the available advertising inventory information and the pricing information stored in the matrix by specifying at least one selection at least one selection criterion reflective of the advertising stored in the plurality of cells (paragraphs 0019 and 0037).*

**Claim 48:**

As per claim 48, **Blasko** teaches the system comprising:

*a computer system comprising:*

*a processor (paragraph 0029);*

*an input device, operably connected to the processor, allowing data to be output from the computer system (paragraph 0029);*

*a system memory operably connected to the processor (paragraph 0029);*

*and at least one storage device operably coupled with the computer system, the storage device being configured to store software and data (paragraph 0029);*

*and software system comprising;*

*a classifier configured to classify available advertising into a matrix including a plurality of cells storing advertising information, each of the cells being associated with a channel, a daypart, and a service zone within the service area (paragraphs 0035 and 0036);*

*an associator configured to associate with each an available advertising inventory, relevant psychographic viewer information including one or more of viewer spending preferences, viewer interests, and viewer politics, and a price settable based on the available advertising inventory and the relevant viewer information (paragraphs 0033, 0034, 0036, 0037 and 0008);*

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*and interface configured to access one of the available advertising inventory information and the pricing information stored in the matrix by specifying at least one selection criterion reflective of the advertising information stored in the plurality of cells* (paragraphs 0019 and 0037).

**Claims 2, 32 and 49:**

As per claims 2, 32 and 49, **Blasko** teaches the method of claim 1, the computer readable medium of claim 31 and the system of claim 48 as described above and further teaches *wherein the service zones associated with the cells are delineated geographically* (paragraphs 0034 and 0035).

**Claims 3, 33 and 50:**

As per claims 3, 33 and 50, **Blasko** teaches the method of claim 1, the computer readable medium of claim 31 and the system of claim 48 as described above and further teaches *wherein the service zones with the cells are delineated according to other information aligning persons into an identifiable group* (paragraph 0034 and 0035).

**Claims 4, 34 and 51:**

As per claim 4, **Blasko** teaches the method of claim 1, computer readable medium of claim 31 and the system of claim 48 as described above and further teaches *populating the cells of the matrix with relevant viewer information regarding potential television viewers in the service zones associated with the cells* (paragraphs 0034 and 0035).

**Claims 5, 35 and 52:**

As per claims 5, 35 and 52, **Blasko** teaches the method of claim 4, the computer readable medium of claim 34 and the system of claim 51 as described above and further teaches *wherein the viewer information is gathered from surveys of the potential television viewers in the services zones* (paragraph 0042).

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**Claims 8, 40 and 55:**

As per claims 8, 40 and 55, **Blasko** teaches the method of claim 1, the computer readable medium of claim 39 and the system of claim 54 as described above and further teaches *wherein the psychographic information further includes at least one of viewer income, and viewer television viewing habits* (paragraphs 0034 and 0035).

**Claims 9, 37 and 56:**

As per claim 9, 37 and 56, **Blasko** teaches the method of claim 1, the computer readable medium of claim 31 and the system of claim 48 as described above and further teaches *wherein the viewer information includes demographic information* (paragraph 0034).

**Claims 10, 38 and 57:**

As per claims 10, 38 and 57, **Blasko** teaches the method of claim 9, the computer readable medium of claim 31 and the system of claim 56 as described above and further teaches *wherein the demographic information includes one of viewer age, viewer gender, and viewer residence information* (paragraph 0034).

**Claims 11, 41 and 58:**

As per claims 11, 41 and 58, **Blasko** teaches the method of claim 1, the computer readable medium of claim 31 and the system of claim 48 as described above and further teaches *wherein the available advertising inventory includes specific timing and duration information regarding when available advertising inventory exists* (paragraphs 0005 and 0036).

**Claims 12, 42 and 59:**

As per claims 12, 42 and 59 **Blasko** teaches the method of claim 1, the computer readable medium of claim 31 and the system of claim 48 as described above and further teaches *automatically*

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*updating the available advertising inventory to reflect sales of advertising slots (paragraphs 0012, 0016, 0036 and 0037).*

**Claims 13, 43 and 60:**

As per claim 13, 43 and 60 **Blasko** teaches the method of claim 1, method of claim 31 and the system of claim 48 as described above and further teaches *at least one of generating a pricing alert as a function of the available advertising inventory and automatically adjusting the pricing information as a function of the available advertising inventory* (paragraph 0037).

**Claims 14, 44 and 61:**

As per claims 14, 44 and 61, **Blasko** teaches the method of claim 1, the computer readable medium of claim 31 and the system of claim 48 as described above and further teaches *wherein the selection criterion for accessing the available inventory information includes choosing at least one of the channel, daypart, and the service zone* (paragraph 0052).

**Claims 15, 45 and 62:**

As per claims 15, 45 and 62, **Blasko** teaches the method of claim 14, the computer readable medium of claim 44 and the system of claim 61 as described above and further teaches *wherein the selection criterion for accessing the available advertising inventory information includes at least one of availability, unit price, demographic information, and psychographic information* (paragraph 0054).

**Claims 16, 46 and 63:**

As per claim 16, 46 and 63 **Blasko** teaches the method of claim 15, the computer readable medium of claim 31 and the system of claim 62 as described above and further teaches *sorting the available advertising inventory according to at least one of the availability, unit price, the demographic information, and the psychographic information* (paragraph 0052).



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**Claims 17, 47 and 64:**

As per claim 17, 47 and 64 **Blasko** teaches the method of claim 1, the computer readable medium of claim 31 and the system of claim 48 as described above and further teaches *providing shared access to the matrix such that a plurality of users have the ability to current inventory and information and pricing information* (paragraphs 0016, 0040, 0041, 0049, 0050 and 0052).

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 6, 36 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blasko et al. US Publication 2002/0083444 A1.

**Claims 6, 36 and 53:**

As per claims 6, 36 and 53, **Blasko** teaches the method of claim 4, the computer readable medium of claim 34 and the system of claim 51 as described above but do not teach *wherein the viewer information is gathered by extracting viewer information from set-top boxes configured to relay television content from a television service provider in the service zones*. However, it would have been obvious to one of ordinary skill in the art at the time of the invention for Blasko to extract viewer information from set top boxes configured to relay television content from television service provider in the service zone. Similarly, internet service providers extract viewer information while the user is online browsing through websites.

12. Claims 18-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blasko et al. US Publication 2002/0083444 A1 in view of Remillard US Patent 5,404,393.

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**Claim 18:**

As per claim 18, **Blasko** teaches the method comprising:

*classifying available advertising into a matrix including a plurality of cells storing advertising information, each of the cells being associated with a channel, a daypart, and a service zone within the service area (paragraphs 0035 and 0036);*

**Blasko** teaches associating with each cell an available advertising inventory (paragraph 0036), populating cells of the matrix with psychographic information regarding potential television viewers in the service area (paragraph 0034), and including one or more of viewer spending preferences, viewer interest, and politics (paragraph 0008) but does not teach the psychographic information being gathered from one of surveys of at least a subset of the potential television viewers and set-up boxes configured to relay television content from a television service provider. However, **Remillard** teaches a method and apparatus for interactive television through use of menu window in column 1, lines 20-29 and further teaches, "It is known in the art to survey television program viewing habits of television audiences. These surveys are especially important for commercial television broadcasting because advertising and programming decisions are based on television show popularity" (column 1, lines 30-34). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention for Blasko to gather surveys of potential television viewers. One would have been motivated to gather surveys of potential television viewers to obtain data regarding viewer interest, demographics and television viewing habits.

*associating with each cell an advertising price settable based on the available advertising inventory and the psychographic information (paragraphs 0034 and 0037);*

*and accessing one of the available advertising inventory information and the pricing information the matrix by specifying at least one selection criterion reflective of the advertising information stored in the plurality of cells (paragraphs 0019 and 0037).*

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**Claim 19:**

As per claim 19, **Blasko** and **Remillard** teaches the method of claim 18 as described above and **Blasko** further teaches *wherein the service zones associated with the cells are delineated geographically* (paragraphs 0034 and 0035).

**Claim 20:**

As per claim 20, **Blasko** and **Remillard** teaches the method of claim 18 as described above and **Blasko** further teaches *wherein the service zones associated with the cells are delineated according to other information aligning persons into an identifiable group* (paragraph 0034 and 0035).

**Claim 21:**

As per claim 21, **Blasko** and **Remillard** teaches the method of claim 18 as described above and **Blasko** further teaches *wherein the psychographic information includes one or more of viewer income, and viewer television viewing habits* (paragraphs 0034 and 0035).

**Claim 22:**

As per claim 22, **Blasko** and **Remillard** teaches the method of claim 18 as described above and **Blasko** further teaches *demographic information associated with the cells of the matrix* (paragraph 0034).

**Claim 23:**

As per claim 23, **Blasko** and **Remillard** teaches the method of claim 22 as described above and **Blasko** further teaches *wherein the demographic information includes one of viewer age, viewer gender, and viewer residence information* (paragraph 0034).

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**Claim 24:**

As per claim 24, **Blasko** and **Remillard** teaches the method of claim 18 as described above and **Blasko** further teaches *wherein the available advertising inventory includes specific timing and duration information regarding when available advertising inventory exists* (paragraphs 0005 and 0036).

**Claim 25:**

As per claim 25, **Blasko** and **Remillard** teaches the method of claim 18 as described above and **Blasko** further teaches *at least one of generating a pricing alert as function of the available advertising inventory and automatically adjusting the pricing information as a function of the available advertising inventory* (paragraph 0037).

**Claim 26:**

As per claim 26, **Blasko** and **Remillard** teaches the method of claim 18 as described above and **Blasko** further teaches *automatically adjusting the pricing information as a function of the available advertising inventory* (paragraph 0037).

**Claim 27:**

As per claim 27, **Blasko** and **Remillard** teaches the method of claim 18 as described above and **Blasko** further teaches *wherein the selection criterion for accessing the available inventory information includes choosing at least one of the channel, the daypart and the service zone* (paragraph 0052).

**Claim 28:**

As per claim 28, **Blasko** and **Remillard** teaches the method of claim 27 as described above and **Blasko** further teaches *wherein the selection criterion for accessing the available advertising inventory information includes at least one of availability, unit price, demographic information, and psychographic information* (paragraph 0054).

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**Claim 29:**

As per claim 29, **Blasko** and **Remillard** teaches the method of claim 28 as described above and **Blasko** further teaches *sorting the available advertising inventory according to at least one of the availability, unit price, the demographic information, and the psychographic information* (paragraph 0052).

**Claim 30:**

As per claim 30, **Blasko** and **Remillard** teaches the method of claim 18 as described above and **Blasko** further teaches *providing shared access to the matrix such that a plurality of users have the ability to current inventory and information and pricing information* (paragraphs 0016, 0040, 0041, 0049, 0050 and 0052).

### ***Response to Arguments***

13. Applicant's arguments filed 03 July 2008 have been fully considered but they are not persuasive.
  - a. Applicant argues on pages 16, 17, 19 and 21 of the remarks-- First, Blasko fails to teach or suggest "classifying available advertising into a matrix including a plurality of cells". Blasko teaches, "It should be understood by those of skill in the art that the data and information stored in databases 21-25 may be combined in a variety of ways so that one or more databases can store such data therein. For example, the addressable unit data stored in the first database 21 may be correlated with the geo-demographic data stored in the second database 22 such that one database stores therein addressable unit data associated with the geo-demographic data." (paragraph 0038) and "The correlation & analysis module 10 can output the results of the execution of these algorithms to the user interface device 30 for display to the user. These results can be displayed in a variety of different ways, e.g. in graphs, charts, texts, drawings, table or any combination thereof. The correlation & analysis module 10 can also update or store

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new data in the databases 21-25.” (paragraph 0034). Information in a database can be stored in a variety of ways, such as rows and tables. A matrix contains both rows and columns.

- b. Applicant argues on page 16, 17-18, and 19-20 of the remarks—Second, Blasko fails to teach or suggest the use of psychographic viewer information of any form. However, Blasko teaches, “The third database 23 may store TV program viewership data identifying the types of names of TV programs that people in each neighborhood or groups of neighborhoods in the country tend to watch. Marketing firms and other research companies provide such data. For example, the Claritas system can identify the types of names of TV programs in certain neighborhoods tend to watch. The TV program viewership data may further identify other program data, such as the average viewing time for each program in these neighborhoods.”- (paragraph 0035). The viewership data reads on viewer interests related to psychographic information in the claims.
- c. Applicant argues on page 16, 18 and 20 of the remarks—Third, Blasko fails to teach or suggest the types of psychographic viewer information recited by claims 1, 31 and 48. For example, claim 1 as amended recites one or more viewer spending preferences, viewer interests and viewer politics. However, Blasko teaches, “The third database 23 may store TV program viewership data identifying the types of names of TV programs that people in each neighborhood or groups of neighborhoods in the country tend to watch. Marketing firms and other research companies provide such data. For example, the Claritas system can identify the types of names of TV programs in certain neighborhoods tend to watch. The TV program viewership data may further identify other program data, such as the average viewing time for each program in these neighborhoods.”- (paragraph 0035). The viewership data reads on viewer interests related to psychographic information in the claims.
- d. Applicant argues on page 21 of the remarks—Respectfully, nothing described in Remillard described taking surveys that would collect information about spending preferences, viewer

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interests, or viewer politics; at most, Remillard may provide information about what a viewer has watched. However, Remillard teaches, "It is known in the art to survey television program viewing habits of television audiences. These surveys are especially important for commercial television broadcasting because advertising and programming decisions are based on television show popularity. Many different types of surveys are available, but one of the most accurate types is in-home monitoring. An in-home monitoring survey relates to those surveys taken when a rating company provides a household with special hardware equipment that automatically records and logs television activity." (column 1, lines 30-40). As described in Remillard, the in-home monitoring survey records and logs television activity, it is inherent it will record and log all types of activities such as viewer interests, spending preferences and viewer politics.

### ***Conclusion***

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW L. HAMILTON whose telephone number is (571)270-1837. The examiner can normally be reached on Monday-Friday 7:30a.m-5p.m EST alt Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James W. Myhre can be reached on (571) 272-6722. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MLH  
Examiner, Art Unit 3688  
October 17, 2008

/Donald L. Champagne/  
Primary Examiner, Art Unit 3688